



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 31222317

Date: JUL. 02, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, a production designer, seeks classification as an individual of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding the Petitioner did not satisfy at least three of the initial evidentiary criteria. The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate sustained acclaim and the recognition of achievements in the field through a one-time achievement (that is, a major, internationally recognized award) or qualifying documentation that meets at least three of the ten categories listed at 8 C.F.R. § 204.5(h)(3)(i) – (x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The record indicates that Petitioner received a bachelor's degree from the [REDACTED] [REDACTED] in 2014. She indicates her most recent employment as a “production assistant/student” at [REDACTED] from September 2021 to May 2023, and previous self-employment in [REDACTED] as a freelance production designer.<sup>1</sup> At the time of filing the petition in July 2023, the Petitioner was pursuing a master's degree in design for stage and film at [REDACTED] [REDACTED]

Because the Petitioner has not indicated or established receipt of a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)-(x). In denying the petition, the Director determined the Petitioner fulfilled only one (display at 8 C.F.R. § 204.5(h)(3)(vii)) of the six claimed categories of evidence.

On appeal, the Petitioner maintains her qualification for the remaining five claimed criteria. In addition, the Petitioner submits new evidence. Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. See 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because “the petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial”). Thus, we will only address the evidence and claims brought before the Director and contested on appeal. For the reasons discussed below, the Petitioner did not establish she meets at least three categories of evidence.

### A. Evidentiary Criteria

*Documentation of the individual's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i).

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<sup>1</sup> See the Petitioner's Form I-485, Application to Register Permanent Residence or Adjust Status.

In order to fulfill this criterion, the Petitioner must demonstrate that her receipt of prizes or awards are nationally or internationally recognized for excellence in the field of endeavor.<sup>2</sup> Relevant considerations regarding whether the basis for granting the prizes or awards was excellence in the field include, but are not limited to, the criteria used to grant the prizes or awards, the national or international significance of the prizes or awards in the field, and the number of awardees or prize recipients as well as any limitations on competitors.<sup>3</sup>

The Petitioner maintains that she meets this criterion based on her receipt of a [redacted] [redacted] 2020 Regional Emmy Award, or [redacted] for [redacted] [redacted] (awarded to the film [redacted] and executive producers [redacted] [redacted] and [redacted] for her role as production designer. The Petitioner previously submitted screenshots from the [redacted] website [redacted], which provide background information regarding the [redacted] awards and a list of the 2020 [redacted] award nominees and recipients. In addition, the Petitioner provided a photograph of her Production Plaque with Regional Emmy Statuette, an item described on the [redacted] website as available for purchase.

The Director determined that the Petitioner did not meet the requirements of this criterion. The Director found that the record did not demonstrate sufficiently that the Petitioner's [redacted] award was nationally or internationally recognized for excellence in her field. Rather, according to documentation from the website of the awarding entity [redacted] the award amounted to regional recognition, as its website indicates it represents the [redacted] region, and "covers [redacted]"

On appeal, the Petitioner argues that the [redacted] award "is [] granted by the National Academy of Television Arts & Sciences ("NATAS") through its [redacted] Chapter" showing that [redacted] are part of NATAS, the organization that bestows the Emmys, an extensive range of awards for artistic and technical merit for the American and international television industry.

First, in order to fulfill this criterion, the Petitioner must demonstrate her own receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor. Although not addressed by the Director, the record shows that the Petitioner did not receive the 2020 [redacted] award; rather, the film [redacted] its production company, and its executive producers, [redacted] and [redacted] are the named recipients.<sup>4</sup> The record indicates that subsequent to the 2020 [redacted] award ceremony, and consistent with information on the organization's website regarding how "to purchase a Commemorative Emmy or a Recognition Award," the Petitioner purchased a Recognition Award for "individuals who made a significant contribution to a winning piece's award-worthiness but were not listed on the original entry."

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<sup>2</sup> See generally 6 USCIS Policy Manual F.2(B)(1), <https://www.uscis.gov/policy-manual..>

<sup>3</sup> *Id.*

<sup>4</sup> The 2020 [redacted] Award Nominations and Emmy Recipients list also indicates that [redacted] [redacted] received two other [redacted] for [redacted] and [redacted] and one nomination for [redacted]

The background information regarding the annual 2020 [redacted] indicates they were awarded on [redacted] 2021, in over 120 categories with “over 1000 entries this year with 393 Emmy nominations.” The submitted list of the 2020 [redacted] Recipients indicates there were approximately 177 [redacted] awarded, including for production design. If the organizers intended to recognize the Petitioner individually for her role as production designer of [redacted] it appears that they could have done so by bestowing her with an individual award. While we recognize that this role is essential in television production, it remains that the Petitioner was not the recipient of the 2020 [redacted] Award and, therefore, the award does not satisfy the plain language of this regulation.

Further, assuming that the Petitioner had established her receipt of the 2020 [redacted] Award, we agree with the Director’s determination that the record did not demonstrate sufficiently that the [redacted] award was nationally or internationally recognized for excellence in the Petitioner’s field. Rather, according to documentation from website of the [redacted] Chapter, the award amounted to regional recognition, as the awarding organization represents the [redacted] region, and “covers [redacted]

On appeal, the Petitioner argues that the [redacted] award “is [] granted by the National Academy of Television Arts & Sciences (“NATAS”) through its [redacted] Chapter” showing that [redacted] are part of NATAS, the organization that bestows the Emmys. The record demonstrates that the [redacted] are awards granted by the [redacted] Chapter of NATAS. The [redacted] Chapter is one of 19 regional chapters, and the [redacted] are distinct from the Emmy Award which corresponds with high-level awards such as the Oscar, Tony, or Grammy performing arts awards. The NATAS website reflects that “[e]ach Chapter awards Emmys in their region . . .” *A Few Words About Our Regional Chapters*, National Academy of Television Arts and Sciences, <https://theemmys.tv/chapters/> (accessed June 28, 2024).

Moreover, the Petitioner also provided several articles dated [redacted] or [redacted] 2021 that mention that the [redacted] won the [redacted] award. An article from Whatwomenwant-mag.com provides that [redacted] examines local government in [redacted] in the 1970’s [redacted] an article from Masrawy.com provides the [redacted] is awarded “for television production in several fields in the television industry.” This evidence does not address the significance of the Petitioner’s [redacted] award, and does demonstrate, for example, that the [redacted] Awards program enjoys the major media coverage or the same recognition as that documented for NATAS’ Emmy awards. Therefore, the submitted articles are not sufficient to establish that the [redacted] award winners receive a level of media coverage that is commensurate with a nationally or internationally recognized award in the entertainment industry. Additionally, the record lacks the criteria this regional entity relied upon to select the winners of this accolade. Based on the above, the Petitioner has not established that she meets this criterion.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien's work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii).

In addressing whether the Petitioner meet this criterion, USCIS first determines whether the published material was related to the person and the person's specific work in the field for which classification is sought.<sup>5</sup> The published material should be about the person, relating to the person's work in the field, not just about the person's employer and the employer's work or another organization and that organization's work.<sup>6</sup> USCIS then determines whether the publication qualifies as a professional publication, major trade publication, or other major media publication.<sup>7</sup>

The record includes an Internet Movie Database (IMDb) printout, indicating that the Petitioner worked as a production designer, art director, or assistant art director on several projects between 2012 and 2023, including: [redacted] (2012); [redacted] (2012 TV Series); [redacted] (2012); [redacted] (2013 TV Series); [redacted] (2014 TV Series); [redacted] (2014 Short); [redacted] (2018); and [redacted] (2020 Short). This document does not satisfy the criterion because it does not include information about the author. In addition, other than listing her role in the productions, the printout does not provide any additional information about her or her work as a production designer or art director.

In addition, the record reflects the Petitioner provided 18 articles posted online.<sup>8</sup> We note that 12 of the articles do not contain the regulatory requirement of the "title, date, and author of the material." Specifically, articles posted on Egyptindependent.com, Broadcastprome.com, Dailynewsegyp.com, Almasryalyoum.com, and Youm7.com do not include the required authors of the material. Furthermore, an additional 7 articles do not indicate the publications, the date, and the author of the material.

Thus, the Petitioner submitted 6 articles (Whatwomenwant-mag.com; Egypttoday.com; Masrawy.com; Shorouknews.com (2); Hebdo.ahram.org.eg) reflecting published material about the Petitioner relating to her work and including the required title, date, and author. In addition, the Petitioner provided average daily visitors, rankings, and percentiles of global Internet users from HypeStat: Whatwomenwant-mag.com (6,900, 653,842nd, .00014%); Egypttoday.com (11,200, 793,898th, .0002273%); Masrawy.com (679,900, 41,331st, .0137923%); and Shorouknews.com (89,700, 486,000th, .00473%). She also submitted data from *SimilarWeb* which indicates that

<sup>5</sup> See generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> We note that in response to the Director's request for evidence (RFE), the Petitioner submitted an article titled [redacted] published by voyagela.com in [redacted] 2023. In addition, she submitted an article titled [redacted] published by shoutoutla.com in [redacted] 2023. As the Director noted, these articles were published subsequent to the filing of this petition in July 2023. The Petitioner must establish that all eligibility requirements for the immigration benefit have been satisfied from the time of the filing and continuing through adjudication. 8 C.F.R. § 103.2(b)(1). As these published materials submitted in response to the RFE cannot establish the Petitioner's eligibility as of the date of filing, we need not evaluate whether they otherwise satisfy the plain language of the criterion at 8 C.F.R. § 204.5(h)(3)(iii).

Masrawy.com has a global rank of 4,179 and a country rank of 23, and Shorouknews.com has a global rank of 21,572 and a country rank of 212.

However, the Petitioner has not explained the significance of the statistics and rankings and how such data supports a determination that these websites qualify as “major media” by having a high circulation or distribution relative to other online publications.<sup>9</sup> Further, based on the low figures, rankings, and percentiles, the Petitioner did not demonstrate that any of the websites are tantamount to major media. Moreover, the record does not contain information relating to Hebdo.ahram.org.eg as a professional or major trade publication or other major medium.

Finally, the Petitioner submitted YouTube screenshots of two videos posted by [ ] and [ ] from episodes of the [ ] show, and a third YouTube screenshot of a video posted by the Egyptian TV channel [ ]. All three videos report on the Petitioner’s receipt of a [ ] award and are accompanied by a transcription to demonstrate published material about her relating to her work. However, the Petitioner did not establish that the show [ ] represents a major medium. In addition, the Petitioner noted that the YouTube channels of [ ] and [ ] have 6.94 million, 380,000, and 125,000 subscribers, respectively. However, she did not demonstrate the significance of 6.94 million, 380,000, or 125,000 subscribers on a YouTube channel.<sup>10</sup> For the reasons discussed above, the Petitioner did not show she meets every element of this criterion.

*Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), USCIS determines whether the person has made original contributions in the field.<sup>11</sup> USCIS then determines whether the original contributions are of major significance to the field.<sup>12</sup> Examples of relevant evidence include, but are not limited to: published materials about the significance of the person’s original work; testimonials, letters, and affidavits about the persons original work; documentation that the person’s original work was cited at a level indicative of major significance in the field; and patents or licenses deriving from the person’s work or evidence of commercial use of the person’s work.<sup>13</sup>

The Director acknowledged that the Petitioner submitted letters of support from experts in her field which are highly complimentary of her work and professional accomplishments. However, the Director determined that the testimonial evidence did not establish that she has made original

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<sup>9</sup> See generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1) (providing that in evaluating whether a submitted publication is a professional publication, major trade publication, or other major media, relevant factors include the intended audience (for professional and major trade publications) and the relative circulation, readership, or viewership (for major trade publications and other major media)).

<sup>10</sup> The Petitioner provided screenshots and transcripts for two additional interviews with the Petitioner, but the screenshots, which are in the Arabic language, are not accompanied by an English language translation and the required certification from the translator. Any document in a foreign language must be accompanied by a full English language translation. 8 C.F.R. § 103.2(b)(3). The translator must certify that the English language translation is complete and accurate, and that the translator is competent to translate from the foreign language into English. *Id.*

<sup>11</sup> See generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

contributions of major significance in the field. He emphasized that while they discuss the Petitioner's contributions as applied to specific productions, such as [REDACTED] and [REDACTED] the letters lacked specificity as to how the Petitioner's work has impacted the field of production design. On appeal, the Petitioner maintains that the documentation submitted, including "letters from professionals and experts in the industry" constitute "ample independent and objective evidence to substantiate [the Petitioner's] original contributions and the significant impact of her work."

Upon review, we observe that the individuals who provided letters in support of the petition attest to the Petitioner's artistic and technical talents as a production designer, list her film credits, and contain assertions that she is highly regarded throughout the industry. We have no reason to question the credentials of the industry experts who provided letters in support of the petition or to doubt the credibility of their statements or the sincerity of their praise for the Petitioner's work. However, the letters focus on the Petitioner's contributions to specific projects rather than specifically articulating how her contributions are of major significance in the field and have impacted subsequent work. We address a representative sample of the letters below but have reviewed and considered each one.

[REDACTED] the co-producer and co-director of [REDACTED], indicates he worked closely with the Petitioner "to create stylized reenactments that helped shape the visual aesthetic of the film and bring the story to life" and her "eye for design, tenacious work ethic, and passion made her a valued member of the team . . . ." Screenwriter and director [REDACTED] who worked with the Petitioner on a family planning awareness campaign in 2012, states that she "has a unique and sharp taste in location choices, sets, costumes, and props . . . and developed a precise look and feel of the campaign film, which is exactly what I was looking for." Director [REDACTED] who worked with the Petitioner on his second short film [REDACTED] while they were students at [REDACTED] states that she "interpreted my vision for the look and feel of the film" and "brought texture and familiarity to the stark imagery of the film." He calls her "one of the very top production designers and art directors in Egypt." [REDACTED] a producer who worked with the Petitioner on several advertising campaigns between 2015 and 2018, describes the "identifiable features" of her production design as "precisely composed imagery, imbued with a wash of one or two dominant colors, supported by iconic visual details that convey key elements of the story."

While the letters submitted with the initial filing describe the Petitioner's original contributions to specific productions in some detail, they do not comment on how these contributions to individual projects were of major significance, such that they had a remarkable influence or impact in the field of production design. While Mr. [REDACTED] asserts the Petitioner's standing in her field, the regulation at 8 C.F.R. § 204.5(h)(3)(v) does not indicate that attaining "one of the very top" is a relevant factor in determining whether an individual has made an original contribution of major significance in the field. Rather, a petitioner's overall standing in the field is evaluated in a final merits determination.

The Petitioner provided additional expert testimony in response to the Director's RFE. In a second letter submitted in response to the RFE, Mr. [REDACTED] relates his work in 2009 with the Petitioner, as Second Production Designer, on commercial advertising projects such as the [REDACTED] TV commercial, the [REDACTED] project, and the [REDACTED] campaign. He asserts that her "ability to evoke the essence of different places through her design" on his film [REDACTED] "was nothing short of astounding." He notes [REDACTED] "was selected for the [REDACTED] competition at the 2014 [REDACTED] Film Festival" and won "several awards around the world."

In addition, Mr. [ ] broadly asserts that the Petitioner's "innovative approaches and fresh perspectives have had a notable influence on the field, leading to the development of new techniques and standards that benefit the entire American film and production industry," but he does not provide specific examples of original contributions and explain how they have been majorly significant in the field. USCIS need not accept primarily conclusory statements. *1756, Inc. v. The U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.C. Dist. 1990). It is the Petitioner's burden to both specify her original contributions and to document the major significance of those contributions in the field. Without additional detail explaining her "innovative approaches" relating to new or innovative techniques or standards, the letter does not establish that the Petitioner's work has had a demonstrable impact in her field commensurate with a contribution of major significance.

Further, in a second letter submitted in response to the RFE, Mr. [ ] who produced [ ] credited the Petitioner with playing "a pivotal role" in "designing the sets and costumes, meticulously selecting color palettes, and ensuring historical accuracy" of [ ] which "went on to receive four Emmy nominations [ ] Chapter) winning three." While [ ] [ ] received recognition from film festivals and [ ] received several [ ] this recognition has not been linked to the Petitioner's production design contributions to the movies and does not establish how those contributions were of "major significance in the field" consistent with 8 C.F.R. § 204.5(h)(3)(v).

Overall, the letters submitted in response to the RFE pointed to awards or award nominations received by films on which the Petitioner worked, and her overall reputation in her field, but do not contain specific, detailed information identifying or explaining the unusual influence her work has had in her field. However, we emphasize that evidence related to awards, award nominations, and published materials concerning the Petitioner's work has been considered under the appropriate criteria. None of that evidence specifically recognizes the Petitioner for making an original contribution of major significance that has impacted or influenced her field, nor does the record sufficiently establish a connection between that evidence and the significance of any original contributions she has made to the field of production design.

Finally, the Director acknowledged that the Petitioner submitted her proposed professional plan, evidence of claimed designs for the [ ] Music Festival stage and a 2019 [ ] photo shoot event, and her invitations to speak at [ ] and the [ ] in Egypt. She maintains on appeal that her design for the music festival stage and photo shoot event demonstrate the "originality" of her work, while her speaking invitations show her "broad influence." However, she does not further elaborate, specifically identify her contributions, or explain their "originality" or "broad influence." Unsubstantiated assertions do not constitute evidence. *See, e.g., Matter of S-M-*, 22 I&N Dec. 49, 51 (BIA 1998) ("statements in a brief, motion, or Notice of Appeal are not evidence and thus are not entitled to any evidentiary weight"). Regardless, simply making contributions is not sufficient to meet this criterion unless the Petitioner shows those contributions have been majorly significantly in the field.<sup>14</sup> For the reasons discussed above, considered both individually and collectively, the Petitioner has not shown she has made original contributions of major significance in the field.

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<sup>14</sup> *See generally* 6 USCIS Policy Manual, *supra*, at F.2(B)(1) (evidence that the person's work was funded, patented, or published while potentially demonstrating the work's originality, will not necessarily establish, on its own, that the work is of major significance in the field).



*Evidence that the individual has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.* 8 C.F.R. § 204.5(h)(3)(viii).

The petitioner must establish performance in a leading or critical role for an organization, establishment, or division or department of an organization or establishment, and the petitioner must demonstrate whether the organization or establishment, or the department or division for which the person holds or held a leading or critical role, has a distinguished reputation.<sup>15</sup> The Petitioner maintains eligibility for this criterion based on her role as a production designer for the short films [redacted] and [redacted].

The Director determined that the record does not reflect that a short film is an “organization or establishment.” Rather, the record reflects that [redacted] is the property of [redacted] and [redacted] is a student production of the [redacted]. The record does not contain a letter from [redacted] detailing how the Petitioner’s role was leading or critical to the organization as a whole or its distinguished reputation. In two letters, Mr. [redacted] co-producer and co-director of [redacted] indicated that the Petitioner’s contributions as a production designer “were significant” and “played a pivotal role in establishing the visual style of the film.” Regarding [redacted] in two letters, Mr. [redacted] states that the Petitioner’s contribution as the film’s production designer was “superb,” “a key part of the success” of the film, and “elevated the storytelling.” The record does not contain a letter from [redacted] that would establish her leading or critical role with that organization or its distinguished reputation.

In sum, the Petitioner did not establish how the evidence shows that in her position as a production designer for the movies [redacted] and [redacted] resulted in a leading or critical role for [redacted] or the [redacted] nor does it establish their distinguished reputations. Accordingly, the Petitioner has not satisfied this criterion.

### III. CONCLUSION

The Petitioner did not establish she satisfies the four categories of evidence discussed above. Although the Petitioner also argues eligibility for the commercial successes criterion under 8 C.F.R. § 204.5(h)(3)(x), we need not reach this additional ground because the Petitioner cannot fulfill the initial evidentiary requirement of three criteria under 8 C.F.R. § 204.5(h)(3). We also need not provide the type of final merits determination referenced in *Kazarian*, 596 F.3d at 1119-20. Accordingly, we reserve these issues.<sup>16</sup>

Nevertheless, we have reviewed the record in the aggregate, concluding it does not support a conclusion that the Petitioner has established the acclaim and recognition required for the classification sought. The Petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than those progressing toward the top. *Matter of Price*, 20

<sup>15</sup> See generally 6 USCIS Policy Manual, *supra*, at F.2(B)(1).

<sup>16</sup> See *INS v. Bagamasbad*, 429 U.S. 24, 25-26 (1976) (stating that, like courts, federal agencies are not generally required to make findings and decisions unnecessary to the results they reach); see also *Matter of L-A-C-*, 26 I&N Dec. 516, n.7 (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

I&N Dec. 953, 954 (Assoc. Comm'r 1994) (concluding that even major league level athletes do not automatically meet the statutory standards for classification as an individual of “extraordinary ability,”); *Visinscaia*, 4 F. Supp. 3d at 131 (internal quotation marks omitted) (finding that the extraordinary ability designation is “extremely restrictive by design,”); *Hamal v. Dep’t of Homeland Sec. (Hamal II)*, No. 19-cv-2534, 2021 WL 2338316, at \*5 (D.D.C. June 8, 2021), *aff’d*, 2023 WL 1156801 (D.C. Cir. Jan. 31, 2023) (determining that EB-1 visas are “reserved for a very small percentage of prospective immigrants”). *See also Hamal v. Dep’t of Homeland Sec. (Hamal I)*, No. 19-cv-2534, 2020 WL 2934954, at \*1 (D.D.C. June 3, 2020) (citing *Kazarian*, 596 at 1122 (upholding denial of petition of a published theoretical physicist specializing in non-Einsteinian theories of gravitation) (stating that “[c]ourts have found that even highly accomplished individuals fail to win this designation”)); *Lee v. Ziglar*, 237 F. Supp. 2d 914, 918 (N.D. Ill. 2002) (finding that “arguably one of the most famous baseball players in Korean history” did not qualify for visa as a baseball coach).

Here, the Petitioner has not shown the significance of her work is indicative of the required sustained national or international acclaim or it is consistent with a “career of acclaimed work in the field” as contemplated by Congress. H.R. Rep. No. 101-723, 59 (Sept. 19, 1990); *see also* section 203(b)(1)(A) of the Act. Moreover, the record does not otherwise demonstrate the Petitioner has garnered national or international acclaim in the field, and she is one of the small percentage who has risen to the very top of the field of endeavor. *See* section 203(b)(1)(A) of the Act and 8 C.F.R. § 204.5(h)(2). The record does not contain sufficient evidence establishing the Petitioner among the upper echelon in her field.

For the reasons discussed above, the Petitioner has not demonstrated her eligibility as an individual of extraordinary ability. The appeal will be dismissed for the above stated reasons, with each considered as an independent and alternate basis for the decision.

**ORDER:** The appeal is dismissed.